

Landlord and Tenant (Ireland) Act (1870) Amendment Bill.

ARRANGEMENT OF CLAUSES.

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2. Whenever landlord and tenant agree upon a price not exceeding 1,000*l.*, application to carry out sale may be made to the court.
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SCHEDULE.

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B I L L

TO

Provide facilities for the purchase of Lands by Tenants in Ireland, and to amend and alter Part II. and Part III. of "The Landlord and Tenant (Ireland) Act, 1870." A.D. 1873.

WHERRAS it is expedient to provide facilities for the purchase of lands by tenants in Ireland, and to amend and alter Part II. and Part III. of "The Landlord and Tenant (Ireland) Act, 1870":

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Tenants Purchase Act (Ireland), 1873." Short title.

2. Whenever the landlord and tenant of any holding in Ireland may agree in writing in the form No. 1 in Schedule hereto, for the sale of the holding or any part thereof to the tenant, at a price not exceeding *one thousand pounds*, they may jointly, or either of them may separately, with the assent of the other, apply to the Civil Bill Court of the county in which the holding is situate (except as hereinafter excepted) for the sale to the tenant of his holding, in manner following; that is to say,

Whenever landlord and tenant agree upon a price not exceeding 1,000*l.*, application to carry out sale may be made to the court.

(a.) Notice of such application, accompanied by a verified statement, in the prescribed form (or as near thereto as may be), shall be given to the clerk of the peace of the county within which such holding is situate, (except in the Dublin district as herein-after defined,) seven days before the application is made:

(b.) Upon such application coming on to be heard, the court shall make inquiries as to the circumstances of the holding in respect of which the application is made, and as to the sufficiency of the price, and may then proceed to carry such sale into effect by the execution of a Vesting Order as herein-after directed:

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(c.) Whenever the holding in respect of which such agreement has been made between landlord and tenant is in the Dublin district, or whenever the price agreed on for the sale of the holding exceeds *one thousand pounds*, the landlord and tenant may jointly, or either of them separately, with the assent of the other, apply to the Landed Estates Court to carry out the sale to the tenant of his holding; such application shall be grounded on a verified statement in the prescribed form, accompanied by a copy of the agreement, and shall be lodged in the proper office of the court, and thereupon the Landed Estates Court may proceed to carry out the sale as aforesaid:

(d.) All applications to a judge of the Landed Estates Court under this Act shall be made in chamber, but the judge may direct any matter before him to be argued in court.

Court to be satisfied as to adequacy of price.

3. The Court before making a Vesting Order under this Act shall be satisfied by production of a copy of the general valuation, or by such other evidence as may be deemed necessary, that the amount agreed on is the fair value of the holding, and such as would probably be realised on a public sale; and in estimating the sufficiency of the price, the court may take into account the value of any claim which the tenant might establish for improvements or otherwise, as defined by "The Landlord and Tenant (Ireland) Act, 1870," and when the value has been estimated by the court, a certificate thereof given in the prescribed form shall be deemed by the Board of Commissioners of Public Works in Ireland (in this Act referred to as the Board) sufficient evidence of the value of the lands for the purpose of the advance of one half of the purchase money as herein-after mentioned without further inquiry.

The order may be conditional, and any person may object.

4. The Vesting Order may, if the court think fit, be a conditional order in the first instance, in such form and to be served on such incumbents, trustees, or other persons as the court may direct, and such conditional order may be made before the lodgment of any money by the tenant.

On the application to make the order absolute, any person objecting may be heard according to the practice of the court.

Court may execute Vesting Order.

5. The court may, upon the consent of the landlord and tenant as aforesaid, and upon the lodgment in the prescribed manner in the Bank of Ireland, or in any branch office thereof, of the purchase money, execute the Vesting Order pursuant to the form No. 3 in schedule hereto.

The tenant may lodge in the Bank of Ireland or in any branch office thereof one half of the said purchase money; and thereupon it shall be lawful for the court, and the court is hereby required, upon the production of the certificate of the proper officer of the Bank of Ireland that the tenant has lodged one half of the purchase money, to make an order that the Board shall, within the prescribed time, lodge the other half of the purchase money in the Bank of Ireland to the proper account and credit.

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Lodgment of money by tenants and by the Board; and repayment to the Board by way of annuity.

(c.) Upon such advance being made by the Board, and upon an order being made by the court to that effect, such holding shall be deemed to be charged with an annuity of *five pounds* for every one hundred pounds of such advance, and so in proportion for any lesser sum, such annuity to be limited in favour of the Board, and to be declared to be payable in the term of *thirty-five* years.

Annuity in favour of Board.

(b.) The court may, upon said lodgment by the tenant of one half of the purchase money, and upon making the said order that the Board shall lodge the other half of the purchase money, execute the said Vesting Order.

(c.) Such moneys lodged in the bank as aforesaid shall be subject to the orders of the Landed Estates Court, and shall be paid and distributed by the said court.

(d.) Every annuity created in favour of the Board under this Act shall have the same priority, and shall be payable in the same manner, and shall be recoverable by the same process, and shall be redeemable on the same terms, as an annuity for the like purpose created under "The Landlord and Tenant (Ireland) Act, 1870," and shall be deemed for fiscal purposes to be an annuity under that Act.

(e.) Upon the consent of the landlord and tenant, and subject to the approbation of the court, any rent may be reserved by the Vesting Order to the landlord and his successors in title.

6. The Board may, if they think fit, advance to the tenant, for the purpose of purchasing his holding in pursuance of this Act, any sum not exceeding *three fourths* of the price of such holding, and upon such advance being made by the Board such holding shall be deemed to be charged with an annuity of the amount due and for the term aforesaid.

Board of Public Works may advance three fourths of the price.

No purchaser or any person deriving title through him of any holding to whom any advance has been made under this Act shall, after such advance, without the consent of the Board, sub-divide or sublet his holding during such time as any part of the annuity charged on such holding remains unpaid, and if any such holding

Sub-division or subletting of holding so purchased prohibited.

A.D. 1873. he sub-divided or sublet the Board may at once proceed by sale in the Landed Estates Court or otherwise to recover the whole amount which may at the time being remain unpaid, together with the costs of sale, the surplus fund being paid to the owner, or otherwise disposed of as may seem just.

Effect of
Vesting
Order.
(Sec. 35,
L. & T. Act,
1870.)

7. The Vesting Order under this Act shall in the case of freehold land confer on the tenant an estate in fee simple or fee farm (as the case may be) in such holding, together with all rights, privileges, and appurtenances enjoyed or reputed to be belonging or appertaining thereto, subject to such charges and interests (if any subsisting) as by this Act are declared not to be incumbrances, and in case of estates in fee farm to the rents, covenants, and conditions expressed in the grant relating to the land, and on the part of the grantee, his heirs, executors, administrators, and assigns to be paid, observed, and performed, but freed from all other estates, incumbrances, and interests whatsoever, and shall in the case of leasehold land vest the holding in the tenant for the period and subject to the rents, covenants, and conditions expressed in the lease relating to the land of which the holding forms the whole or part, and on the part of the lessee, his executors, administrators, and assigns, to be paid, observed, and performed, subject to such charges and interests, if any, as are in this part of this Act declared not to be incumbrances, but free from all other incumbrances and estates whatsoever.

Certain
charges not
incum-
brances.
(Sec. 36,
L. & T. Act,
1870.)

8. The following charges and interests shall not be deemed incumbrances within the meaning of this Act; that is to say,
(a.) Quitrents and rentcharges in lieu of tithes;
(b.) Rights of common, rights of way, watercourses, and rights of water and other easements;
(c.) Heriots, manorial rights of all descriptions, and franchises;
(d.) Charges for drainage or land improvement, and other charges created under Act of Parliament:

And every holding sold under this Act shall, unless the contrary is expressed in the Vesting Order, be deemed to be subject to such of the above charges and interests as may be for the time being subsisting therein.

Form and
preparation,
and execu-
tion, and
filing on
record of
Vesting
Orders.

9. (a.) The Vesting Order under this Act with respect to holdings not within the Dublin District shall be drawn up by the clerk of the peace, under the direction of the chairman of the county, and it shall be transmitted by the clerk of the peace to the proper officer of the Landed Estates Court, who shall have the same printed on parchment in triplicate, with maps annexed thereto, and

when the same are ready for signature and certified as correct by the clerk of the peace, they shall be laid before the chairman for his signature, and when signed by him and duly stamped, one part of such order shall be delivered to the purchaser, another part shall
5 be filed in the office of the clerk of the guardians of the poor law union in which the lands are situate, and the third part shall be recorded in the Record of Title Office as herein-after mentioned.

A.D. 1872.

(5.) The Vesting Order under this Act with respect to holdings within the Dublin district, and with respect to holdings the purchase money for which exceeds *one thousand pounds*, shall be prepared by the proper officer of the Landed Estates Court and printed on parchment in triplicate with maps annexed, and signed by the judge and sealed, and one part of such order shall be delivered to the purchaser, another part shall be filed in the office of the clerk
10 of the guardians of the poor law union in which the lands are situate, and a third part shall be recorded in the Record of Title Office as herein-after mentioned.

Vesting Orders as to holdings within Dublin district.

And the several Acts of Parliament for the Registration of Deeds in Ireland shall not apply to or affect any land after the same has
20 been purchased under this Act and placed on record as aforesaid.

Registry Acts not to apply to land purchased under this Act.

10. No Vesting Order shall be deemed invalid by reason of any defect of service as to any person ordered to be served, or by reason of any irregularity or informality therein, or in the proceedings previous to the making thereof; and all powers of amendment of
25 the record now vested in the Landed Estates Court shall extend to the Vesting Orders made and recorded under this Act.

Vesting Order not to be invalid by reason of irregularity.
Power of amendment.

11. The clerk of the union shall cause the Vesting Orders filed with him to be bound up and indexed, and the book or books containing the same shall be open to the public, and copies of the
30 orders therein may be delivered to any person applying for the same during such days and hours, and on payment of such fees, as may be prescribed by rules.

Preservation and recording of Vesting Orders, and annual report upon them.

(a.) The provisions of the Record of Title Act (Ireland), 1865, so far as same shall be applicable and not inconsistent with this
35 Act, shall apply to all Vesting Orders signed and recorded as aforesaid, and the portions of land comprised in such vesting orders shall be "recorded estates" within the meaning of the last-mentioned Act: Provided always, that the thirty-second section of the said Record of Title Act, 1865, shall not apply to any land
40 comprised in a Vesting Order under this Act.

(b.) The mode of binding up, keeping, and indexing the Vesting Orders made under this Act shall be uniform and subject to the

A.D. 1873. direction of the recording officer. The recording officer shall prepare and submit to the Lord Lieutenant a yearly report as to the number and value of the holdings purchased under this Act, and the preservation and recording of the orders relating to the same.

Payment and
distribution
or invest-
ment of
purchase
money by
the Landed
Estates
Court.

12. All purchase money lodged by the tenant or by the Board as aforesaid shall be distributed by the Landed Estates Court, Ireland, according to the rights of the parties, and according to the following regulations :

- (a.) Before any application for the purchase money is made to the said court, there shall be lodged a verified statement, following a form to be prescribed, setting forth the particulars of ownership and of the incumbrances on the land, in respect of which the money has been lodged :
- (b.) The court, if it think fit, may require further evidence (documentary or otherwise), and may direct searches against any persons, which searches may, if the court shall think fit, be made by one of the clerks of the court :
- (c.) Notice of the application for payment of the money shall be served in the prescribed manner upon every person who may appear to have any interest in or claim upon the purchase money :
- (d.) Notice shall also be given by advertisement to be published by the Landed Estates Court according to a form resembling the form in which applications for loans for land improvement are now advertised by the Board :
- (e.) The order for payment by the Landed Estates Court of any purchase money as aforesaid may require any incumbrance (whether by mortgage or otherwise) to accept part payment of his demand, and interest shall not run in the amount so ordered to be paid from and after the date of such order :
- (f.) The Landed Estates Court may direct the investment of money either in Government stock or in such other mode of investment as the parties interested may, with the assent of the court, select : Provided always, that investments shall be made in some mode which the Court of Chancery would approve of in the case of trust money :
- (g.) Any order directing investment may state the name and description of the person for the time being entitled to the dividends or annual proceeds :

(A.) The Landed Estates Court shall have all the power and jurisdiction over funds and securities lodged to its account as aforesaid which it has over funds arising from sales under its ordinary jurisdiction.

A.D. 1872.

13. The vesting order when signed and recorded shall be final, with such power of amendment as herein-before contained. Excepting as aforesaid, all orders and directions made under this Act may be the subject matter of appeal in the usual manner to the Court of Appeal in Chancery in Ireland.

Appeals and incorporation of Parts I. & II. of Landlord and Tenant Act, 1870.

14. The clauses of Part II. and Part III. of "The Landlord and Tenant Act (Ireland), 1870," shall apply to and form part of this Act as if same were re-enacted herein, except where they are inconsistent with the provisions of this Act.

14. With respect to fees and duties, be it enacted as follows:

Fees and duties.

(a.) There shall be charged in respect of every sale made in pursuance of this Act a per-centage or duty to the Crown of the like amount and to be levied and paid as in the case of sales in the Landed Estates Court:

(b.) *Every vesting order made under this Act shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed of conveyance or assignment executed by the owner of the lands included therein, and such orders shall be duly stamped for denoting the payment of such duty.*

15. And whereas the business of the Record of Title is liable to be impeded by the want of suitable offices, and by the inability of any assistant to act during the illness or temporary absence of the recording officer, be it further enacted as follows:

Office to be provided.

(a.) The Board shall forthwith take the necessary steps to provide sufficient office accommodation (including a fireproof room) within the enclosure of the Four Courts, for the said Record of Title Office:

(b.) The recording officer for the time being may, with the consent of the Lord Lieutenant, from time to time nominate an assistant in his office, who shall have power to act in his place during his temporary absence.

Provision for temporary absence.

16. The Lord Lieutenant may, after communication with the judges for the time being of the Landed Estates Court, and with some five of the chairmen of counties, issue and promulgate rules with respect to the following matters:

Power to make rules.

A.D. 1873.

- (a.) The statement, advertisement, map or survey, and other proceedings under this Act:
- (b.) The transmission of funds, and of orders and other documents to the Landed Estates Court:
- (c.) The mode in which notices are to be drawn up, served, and published:
- (d.) The circulation of directions and information to tenants and others as to the objects and the carrying out of this Act:
- (e.) Scales of costs and fees in respect of proceedings under this Act, and the mode of taxation and payment thereof:
- (f.) Other matters or things in respect of which it may be expedient to make rules for carrying this Act into effect.

Such rules may by the like authority from time to time be varied, added to, or rescinded.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act; and,

Any rules made in pursuance of this Act shall be of the same force as if herein enacted, and shall be judicially noticed, and shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting within three weeks after the beginning of the then next session of Parliament.

Interpre-
tation clause.

17. In the construction of this Act the following words and expressions shall have the force and meaning hereby assigned, unless there be something in the context repugnant thereto:

- (a.) The term "Lord Lieutenant" shall include the lords justices or other chief governor or governors of Ireland for the time being:
- (b.) The word "court" shall mean the chairman or assistant barrister of every county in Ireland, except within the Dublin district as herein-after defined, and with respect to lands situate within the Dublin district the word court shall mean the Landed Estates Court:
- (c.) The expression "Dublin district" shall mean and include the counties of Meath, Dublin, Wicklow, and Kildare, and the county of the city of Dublin: Provided that the Lord Lieutenant may, by rule made as herein-before authorised, vary the limits of the said district:
- (d.) The word "landlord" shall mean any person who has received, or whose predecessor or predecessors in title have received annual rent arising out of the holding the subject

matter of the said agreement for a period of twenty years
next preceeding the date of the said agreement for sale: A.D. 1872.
Provided that if the land has been at any time conveyed

by the Incumbered or Landed Estates Court, the person
receiving the rent by virtue of such conveyance shall be
deemed to be the landlord within the meaning of this Act:

(e.) The word "prescribed" shall mean prescribed by any rule or
rules to be made in pursuance of this Act:

(f.) The expressions "Record of Title Office" and "Recording
Officer" shall respectively mean the office established by
"The Record of Title Act (Ireland), 1865," and the
officer for the time being in charge of the said office:

(g.) The expression "clerk of the peace" shall include deputy
clerk of the peace or other person acting as clerk of the
peace.

Other words and expressions, so far as the context is not inconsistent
with such interpretation, shall have the meaning assigned to them
by "The Landlord and Tenant (Ireland) Act, 1870."

18. This Act shall apply to all lands, tenements, and corporeal
hereditaments in Ireland, and shall come into operation on the first
day of January one thousand eight hundred and seventy-four. Extent and
commence-
ment of Act.

A.D. 1873.

SCHEDULE of Forms which may be used with such variations as the circumstances of each case may require.

FORM No. 1.

Agreement for Sale. Tenants Purchase Act (Ireland), 1873.

PURSUANT to the "Tenants' Purchase Act (Ireland), 1873," it is agreed 5
between A.B. [landlord] and C.D. [tenant] as follows:—

1. The landlord agrees to sell and the tenant agrees to buy the fee-simple
of the townland of Cherrywood, in the parish of B., barony of F., and county
of G, as now in the tenant's occupation [by virtue of a lease for, &c.]. The
purchase money is to be £ , payable at such time and in such manner 10
as the court shall direct. The tenant's rent is to be payable up to and
including the gale day next before the day on which the tenant shall be
declared the purchaser by the court.

2. The purchaser is to take subject to such charges and outgoings, rights
and encumbrances, as are reserved by the said Act and are now legally subsisting 15
on the lands.

3. The application to the court is to be made by the landlord alone [or by a
solicitor for landlord and tenant jointly], to carry out the sale as aforesaid, and
is to be diligently prosecuted according to the rules and directions in that
behalf made. 20

4. The costs of the application and other proceedings are to be paid by the
landlord, and the costs of vesting orders and maps by the tenant [or as the
case may be], and such costs are to be taxed in the manner prescribed by
the rules.

5. This agreement is subject to the approval of the court, and it is to be null 25
and void if the court refuses to carry the sale into effect.

Dated 1874.

Signatures { A.B. [landlord]
C.D. [tenant].

Signed in presence of

30

FORM No. 2.

Notice of Application to the Court to carry out a sale under the
Tenants Purchase Act (Ireland), 1873.

In the matter of the } TAKE notice that on the day of , or the
"Tenants Purchase Act } first opportunity after, I will apply to the Chairman of 35
(Ireland), 1873," and of } the County of sitting at [or to the
A.B., Landlord, and C.D., } Judge of the Landed Estates Court in chamber, at the
Tenants. } Court, Inns Quay, Dublin [or the case may be], to carry into effect an agree-
ment dated 15th September 1873, for sale to the tenant of his holding situate at

and containing _____ acres or thereabouts, and delineated on the map [annexed hereto, or lodged in the office of, &c., as the case may be]. A.D. 1873.

The rent now paid for the holding is £ _____; the general or tenement valuation of the same is £ _____; the price agreed on is £ _____; payable 5 as the court may direct.

Any person interested may attend as above, and may object to such sale being carried into effect.

NOTE.—This notice is to be served as prescribed by the rules, also on all persons appearing to have an incumbrance or interest, or specially directed 10 by the court to be served.

FORM No. 3.

Vesting Order under the "Tenants Purchase Act (Ireland) 1873."

In the county of _____ [or in the Landed Estates Court,
 (Stamp Duty) as the case may be].

15 In the matter of the } WHEREAS an application has been made by
 "Tenants Purchase Act } to carry out an agreement for sale
 (Ireland), 1873," and of } pursuant to the statute of the holding herein-after
 A.B. Landlord, and C.D. } described for the sum of £ _____ [of which £ _____ is
 Tenant. } sufficient by the Board of Works]; and whereas such price is adjudged
 20 sufficient by the Court and has been lodged in the Bank of Ireland [or tenach
 bank at _____, as the case may be] to the credit of this matter.

Whereupon and upon reading the said agreement [and statement of A.B.
 filed _____ and consent of O.P. dated _____].

It is hereby ordered that the holding of the said C.D., situate in the parish
 25 of E., barony of F., and county of G., containing _____ acres or thereabouts,
 and delineated on the map drawn on this order, do vest in the said C.D., his
 heirs and assigns [or as the case may be].

Subject to such charges and outgoing, rights and encumbrances, as are reserved
 by the Act and are now legally subsisting and affecting the premises.

30 Subject also to repayment of the sum of £ _____ advanced by the Board of
 Works and repayable by means of an annuity of £ _____ for 35 years.

And it is further ordered that this order be forthwith entered in the Record
 of Title Office, Landed Estates Court, and that a copy thereof be filed in the
 office of the clerk of the union of _____ within which the holding is
 35 situate.

*Signature of Judge or Chairman
 of the County.*

*Signature of Clerk of the Peace
 or Registrar.*

40 Signed by the Judge in the }
 presence of _____

**Landlord and Tenant
(Ireland) Act, (1870),
Amendment.**

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B I L L

To provide facilities for the purchase of
Lands by Tenants in Ireland, and to
amend and alter Part II. and Part
III. of the Landlord and Tenant (Ire-
land) Act, 1870.

*(Proposed and brought in by
Mr. Horan, Mr. John Boyle, and Mr. Finn.)*

*Ordered, by The House of Commons, to be Printed,
19 May 1873.*

[Bill 187.]

Under 2 oz.